



**The Comptroller General  
of the United States**

**Washington, D.C. 20548**

## **Decision**

**Matter of:** Arawak Consulting Corporation  
**File:** B-232090  
**Date:** November 8, 1988

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### **DIGEST**

Protest that agency's evaluation deviated materially from the evaluation criteria set forth in the request for proposals is denied where the protester fails to demonstrate that it was prejudiced by the alleged deviation.

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### **DECISION**

Arawak Consulting Corporation protests the award of a contract to Communications Technology Applications, Inc. (CTA), under request for proposals (RFP) No. 101-11-88, issued by the Veterans Administration (VA) for multiple awards to small-business and other concerns for management consulting services. Arawak asserts that the VA, in its evaluation of proposals under the small business set-aside portion of the RFP, deviated materially from the solicitation's stated evaluation criteria; that CTA's proposal should have been rejected as materially unbalanced; and that the set-aside was unduly limited to one award.

We deny the protest in part and dismiss it in part.

### **BACKGROUND**

The RFP provided that proposals would be evaluated on the basis of cost and technical considerations, with cost given 20 percent of the weight in determining overall point scores, and technical factors, 80 percent. The technical evaluation factors and subfactors were listed in Section M of the RFP, in descending order of importance, as follows:

**"(a) COMPANY EXPERIENCE AND DEMONSTRATED ABILITY**

- (1) Experience and ability
- (2) Project management system
- (3) Geographical location

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(b) PROJECT PERSONNEL QUALIFICATIONS

- (1) Personnel Qualifications
- (2) Availability
- (3) Project Director's Qualifications

(c) UNDERSTANDING OF PROBLEM AND APPROACH

- (1) Approach
- (2) Understanding of problem"

Section M also stated that "The requirements for these contracts have been segregated into . . . knowledge and . . . skill areas as identified in Section C.4." Section C.4, "Categories of Studies", listed 10 "knowledge" areas (such as financial management and procurement), and 14 "skill" areas (including workflow analysis and program evaluation), and stated that offerors wishing to be considered for the small business set-aside portion of the procurement (the one at issue here) must show evidence of expertise in at least two knowledge and two skill areas. Section C.4 also advised that "There is no priority to the knowledge areas and skill areas. However, additional weight will be given to Small Business . . . contractors who show sufficient expertise in more than the required minimum number of areas." (Emphasis added.)

Under the small business set-aside portion of the requirement, the agency evaluated seven proposals. CTA's proposal received 63.22 technical points and, as the lowest in price, received the maximum 20 available points on cost, for the highest total score of 83.22. Although Arawak's technical score of 68.97 was second highest, and higher than CTA's, its proposed price was more than twice CTA's, and thus received only 8.76 cost points, for a total of 77.73. Arawak ranked only fourth high in overall score.

ALLEGATIONS

Arawak contends that the VA's evaluation of proposals deviated materially in two respects from the evaluation criteria stated in the RFP, and that these deviations improperly reduced Arawak's score.

Knowledge and Skill Areas

Arawak argues that the phrase "no priority" in section C.4 meant that, in evaluating proposals, the agency would give equal weight to each of the 10 "knowledge" areas and to each of the 14 "skill" areas; that is, Arawak read the phrase as indicating that the same number of points would be

available no matter which of the knowledge and skill areas an offeror chose to demonstrate expertise. Arawak states that it received oral confirmation of its interpretation of the language from the contracting officer prior to submitting its proposal. Arawak complains that, contrary to the "no priority" language, the VA actually assigned varying numerical weights to the knowledge and skill areas, not equal weights, and states that it would have made changes in its proposal had it been aware that different weights would be used.

The VA reports that it never intended to state that the knowledge and skill areas would all be weighted equally, and asserts that the words "no priority" were intended only to indicate that the order in which the components were listed had no significance in terms of the weight they would be assigned in the evaluation. The VA states it has no record of advising Arawak otherwise.

While we think the RFP could have been worded more clearly, we believe the VA's interpretation of the "no priority" language is the more reasonable one. The word "priority" is defined, to the extent relevant here, as follows: "the quality or state of being prior: as . . . superiority, rank, position, privilege or other quality." Webster's Third New International Dictionary (1971). In other words, priority suggests that an item is superior to or of greater importance than other items based on its being prior to those items. Applying this definition here, stating that items will have no priority reasonably indicates, we believe, only that the items are not listed in descending weights, not necessarily that all the listed items would have equal weights.

In any case, however, even if we agreed with Arawak that the VA had not weighted the knowledge and skill areas in accordance with the RFP language, there is no indication that Arawak's evaluation would have been different had the areas been weighted equally. Arawak alleges broadly that it would have altered its proposal had it known the areas would have different weights, but nowhere indicates how it would have done so.

At the same time, we find no basis for assuming that Arawak would have altered its proposal. In this regard, our review of Arawak's proposal and the evaluation documents indicates that the firm addressed and was evaluated on all of the 24 listed criteria. That is, it appears that Arawak, likely in response to the RFP statement that additional weight would be given to small businesses demonstrating expertise in more

than the minimum two areas, submitted a proposal fully addressing all 24 of the areas.

As a result of its approach, Arawak received the second highest technical score. Since it does not appear, then, that Arawak emphasized certain areas at the expense of others, in reliance on the "no priority" language, it is not evident to us, and, again, Arawak does not explain, how it would have altered its proposal had it known the 24 areas would have varying weights in the evaluation. This aspect of the protest therefore is denied. See Air Tractor, Inc., B-228478, Feb. 5, 1988, 88-1 CPD ¶ 115 (protest denied where agency's departure from prescribed technical evaluation plan resulted in award to substantially lower-priced offeror and protester was not prejudiced).

#### Evaluation Subfactors

Arawak also objects that, contrary to the express provisions of the RFP, the factors and subfactors set forth in section M of the solicitation (listed above) were not evaluated in descending order of importance. The record shows in this regard that in its evaluation of proposals the VA assigned decreasing weight to each of the major categories, but equal weight to the subfactors within each category (with the exception of subfactor (a)(1), which was assigned more weight than subsequently listed subfactors), despite language in the RFP stating that the factors and subfactors were listed in descending order of importance. Again, we find that any deviation by the VA from the evaluation scheme in this area had no effect on the rankings of offerors.

Of the 1,140 maximum technical points available for the subfactors in question, Arawak received 1,064 points. Our calculations indicate that, even if the firm had received 76 additional points, for a score of 100 percent in the challenged subfactor areas, its total score would only have increased from 77.73 to 80.08, which would have left the firm fourth high, still not in line for the award. Consequently, Arawak was not prejudiced by the weighting of the subfactors. See B&W Service Industries, Inc., B-224392.2, Oct. 2, 1986, 86-1 CPD ¶ 384.

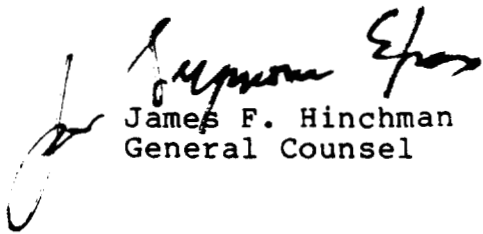
#### Other Allegations

Arawak asserts that CTA's proposal should be rejected as materially unbalanced. However, under our Bid Protest Regulations, 4 C.F.R. §§ 21.0(a) and 21.1(a) (1988), the firm is not an interested party to raise this assertion. As noted above, Arawak ranked no better than fourth in overall score even taking into account any technical flaws in the

evaluation. Since Arawak thus would not be in line for award even if we sustained Arawak's objection concerning CTA's proposal, the firm lacks the direct economic interest necessary to be considered an interested party to raise the issue. Consequently, this portion of Arawak's protest is dismissed. See State Technical Institute at Memphis, B-229695, B-229695.2, Feb. 10, 1988, 67 Comp. Gen. \_\_\_\_\_, 88-1 CPD ¶ 135.

Finally, Arawak contends that the solicitation should have provided that more than one award would be made to small business concerns. We will not consider this assertion on the merits, since it is untimely raised. Under our Regulations, a protest of an alleged impropriety in an RFP that was or should have been apparent on the face of the solicitation must be filed with the agency or our Office no later than the closing date for the submission of proposals. 4 C.F.R. § 21.2(a)(1). The RFP here stated explicitly that only one award would be made in the small business set-aside category. Consequently, a protest that the set-aside should have been expanded had to be filed prior to the closing date for the submission of initial proposals, April 15. Arawak claims a March 22 letter to the VA questioning the set-aside provision satisfied this requirement. Even assuming this to be the case, however, Arawak did not then raise the matter with our Office until September 15, in its post-bid protest conference comments, is untimely and is dismissed. See 4 C.F.R. § 21.2.(a)(3). As this was more than 10 days after initial adverse agency action (i.e., the receipt of proposals on April 15), this allegation.

The protest is denied in part and dismissed in part.



James F. Hinchman  
General Counsel